

**REMARKS**

In accordance with the foregoing, claims 1-4, 6-9, 11-17, 19-21, and 23-29 have been amended, and claims 1-29 are pending and under consideration. No new matter is presented in this Amendment.

**REJECTIONS UNDER 35 U.S.C. §101:**

Claims 1-16 are rejected under 35 U.S.C. §101 because the Examiner has alleged that the claimed invention is directed to non-statutory subject matter. Claim 1 has been amended to recite:

“1. An information storage medium to be accessed by a drive, the information storage medium comprising a reproduction-only area in which maximum recording speed information, minimum recording speed information, maximum reproducing speed information, and/or minimum reproducing speed information which indicate whether thea drive can record and/or reproduce data on the information storage medium are recorded.”

Thus, it is respectfully submitted that claim 1 is drawn towards statutory subject matter because claim 1 now defines “structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure’s functionality to be realized.” MPEP 2106.01 (I). Furthermore, claims 2-16 depend on claim 1. Accordingly, the rejection of claims 1-16 under 35 U.S.C. §101 should be withdrawn.

**REJECTIONS UNDER 35 U.S.C. §102:**

**Osakabe**

Claims 1, 3-5, 16-22 and 27 are rejected under 35 U.S.C. §102(b) as being anticipated by Osakabe (U.S. Patent 6,894,961). In rejecting claim 1 as being anticipated by Osakabe, the Examiner alleges that “Osakabe discloses an information storage medium (column 1, lines 33-35) comprising a reproduction-only area in which recording speed information and/or reproducing speed information which indicate whether a drive can record and/or reproduce data on the information storage medium are recorded (column 1, lines 41-44, 50-column 2, line 10; column 5, lines 31-47).”

By way of review, Osakabe is directed towards "a recordable optical disk where information indicative of recording speeds suitably applicable to the disk is recorded in pre-groove wobbles or pre-pits of the optical disk, and a device for recording on the recordable optical disk." Col. 1, lines 7-12. An object of the invention disclosed by Osakabe is to provide an optical disk and an optical disk recording device which "can reliably prevent recording at speeds beyond predetermined limit values unique to the optical disk." Col. 1, lines 32-36. Osakabe, however, is not directed towards information which is used to reproduce data from an optical disk. Thus, column 1, lines 41-44, 50-column 2, line 10 and column 5, lines 31-47 of Osakabe which are cited by the Examiner in rejecting claim 1 do not disclose information which is used to reproduce data from an optical disk.

Claim 1 has been amended to recite the feature of a reproduction-only area in which maximum recording speed information, minimum recording speed information, and maximum reproducing speed information, and minimum reproducing speed information are recorded. Since Osakabe only discloses "disk-applicable-recording-speed information" (e.g., col. 1, line 40), it is respectfully submitted that Osakabe does not anticipate this recited feature of claim 1. Therefore, the rejection of claim 1 should be withdrawn for at least this reason.

Claims 3-5 and 16 depend on claim 1. Accordingly, the rejections of claims 3-5 and 16 should be withdrawn for at least the same reasons that the rejection of claim 1 should be withdrawn.

Claim 17 has been amended to recite the operation of: "recording, as reproduction-only data in a reproduction-only area, maximum recording speed information, minimum recording speed information, maximum reproducing speed information, and minimum reproducing speed information, which are used to indicate speed capabilities to a drive." As mentioned above with respect to claim 1, Osakabe does not disclose the recording of reproducing speed information in a reproduction-only area, as recited by claim 17. Thus, it is respectfully submitted that claim 17 is patentable for at least the same reasons that claim 1 is patentable.

Claims 18-22 depend on claim 17. Thus, it is respectfully submitted that claims 18 and 22 are patentable for at least the same reasons that claim 17 is patentable.

Additionally, regarding claim 19, it is respectfully submitted that the Examiner has not shown where Osakabe discloses that "the maximum recording speed information, the minimum recording speed information, the maximum reproducing speed information, and the minimum

reproducing speed information are recorded in at least one byte of the reproduction-only area,” as recited by claim 19. The Examiner alleges that Osakabe anticipates this recited feature of claim 19 at col. 6, lines 46-56. Col. 6, lines 46-56 of Osakabe state:

“the lower and upper limit values of the disk-applicable recording speeds are set to ‘1x’ (normal speed) and 16x, respectively. Conversely to the above, the upper limit value of the disk-applicable recording speeds may be incorporated in the lead-in start time information and the lower limit value of the disk-applicable recording speeds may be incorporated in the lead-out start time information.”

Although the above-quoted passage describes “incorporating” upper limit values and lower limit values in the lead-in start time information and the lead-out start time information, the above-quoted passage does not disclose that the upper limit values and lower limit values are recorded in “at least one byte” of the reproduction-only area, as recited by claim 19. In contrast,

Osakabe teaches the manipulation of a lead-in start time (Table 2, lower limit values, col. 6, lines 27-35) and a lead-out start time (Table 3, upper limit values, col. 6, lines 38-45) as the way to record the lower and upper limit values. Manipulating lead-in start times and lead-out start times is not the same as recording maximum recording speed information, minimum recording speed information, maximum reproducing speed information, and minimum reproducing speed information in at least one byte of the reproduction-only area as recited by claim 19.

Accordingly, the rejection of claim 19 should be withdrawn for at least this reason as well.

Claim 27 has been amended to recite the feature of “...a reproduction-only area in which maximum recording speed information, minimum recording speed information, maximum reproducing speed information, and minimum reproducing speed information which indicate whether a drive can record and reproduce data on the information storage medium are recorded.” Accordingly, the rejection of claim 27 should be withdrawn for at least the same reasons that the rejection of claim 1 should be withdrawn.

**Maeda et al.**

Claims 1-3, 5, 9 and 14-15 are rejected under 35 U.S.C. §102(b) as being anticipated by Maeda et al. (U.S. Patent 6,072,759) (hereinafter, “Maeda”). In rejecting claim 1 as being anticipated by Maeda, the Examiner alleges that “Maeda et al. disclose an information storage medium (Fig. 1A; Fig. 1B) comprising a reproduction-only area in which recording speed information and/or reproducing speed information which indicate whether a drive can record and/or reproduce data on the information storage medium are recorded (column 8, line 34-

column 9, line 39).

By way of review, Maeda is directed towards "a disc recording medium where a specific physical format is prescribed, and also to a reproducing apparatus adapted for playing such a recording medium." Col. 1, lines 6-11. A particular object of Maeda is to realize "a novel recording medium which conforms with a specific physical format." Col. 2, lines 8-10. The passage of Maeda relied upon by the Examiner in rejecting claim 1 discloses four bits b0-b3 which are used for recording a minimum lead-out rate. These bits are one type of physical format information recorded in a lead-in area of a DVD as taught by Maeda. Col. 8, lines 65-66, FIG. 8D. This physical format information disclosed by Maeda, which includes the bits corresponding to the minimum lead-out rate, is used to discriminate a kind and type of an optical disk when the optical disk is loaded into a reproducing apparatus. Col. 9, lines 59-64.

However, the physical format information disclosed by Maeda is not recording information which indicates whether a drive can record data on the information storage medium, as recited by claim 1. As mentioned above, claim 1 has been amended to recite the feature of a reproduction-only area in which maximum recording speed information, minimum recording speed information, and maximum reproducing speed information, and minimum reproducing speed information are recorded. Maeda does not disclose "a reproduction-only area in which maximum recording speed information, minimum recording speed information, maximum reproducing speed information, and minimum reproducing speed information which indicate whether the drive can record and reproduce data on the information storage medium are recorded," as recited by claim 1. Accordingly, the rejection of claim 1 should be withdrawn for at least this reason as well.

Claims 2-3, 5, 9, and 14-15 each depend on claim 1. Accordingly the rejections of claims 2-3, 5, 9, and 14-15 should be withdrawn for at least the same reasons that the rejection of claim 1 should be withdrawn.

#### **REJECTIONS UNDER 35 U.S.C. §103:**

##### **Maeda in view of Ohno**

Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over Maeda et al. (U.S. Patent 6,072,759) as applied to claims 1-3, 5, 9 and 14-15 above, and further in view of

Ohno et al (U.S. Patent 6,628,602).

Claim 4 depends on claim 1. Accordingly, the rejection of claim 4 should be withdrawn for at least the same reasons that the rejection of claim 1 should be withdrawn.

**Maeda in view of Kondo**

Claims 7 and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Maeda et al. (U.S. Patent 6,072,759) as applied to claims 1-3, 5, 9 and 14-15 above, and further in view of Kondo (U.S. Patent 6,600,716).

Claims 7 and 16 depend on claim 1. Accordingly, the rejections of claims 7 and 16 should be withdrawn for at least the same reasons that the rejection of claim 1 should be withdrawn.

**Maeda in view of Komoda**

Claim 28 is rejected under 35 U.S.C. §103(a) as being unpatentable over Maeda et al. (U.S. Patent 6,072,759) and Komoda et al. (U.S. Patent 6,701,063).

Claim 28 has been amended to recite the feature that "the data includes maximum recording speed information, minimum recording speed information, maximum reproducing speed information, and minimum reproducing speed information." Accordingly, the rejection of claim 28 should be withdrawn for at least the same reasons that the rejection of claim 1 should be withdrawn.

**Maeda in view of Okada et al.**

Claim 29 is rejected under 35 U.S.C. §103(a) as being unpatentable over Maeda et al. (U.S. Patent 6,072,759) and Okada et al. (U.S. Patent 6,148,140).

Claim 29 has been amended to recite the feature that "the data includes maximum recording speed information, minimum recording speed information, maximum reproducing speed information, and minimum reproducing speed information." Accordingly, the rejection of claim 29 should be withdrawn for at least the same reasons that the rejection of claim 1 should be withdrawn.

Based on the foregoing, this rejection is respectfully requested to be withdrawn.

**ALLOWABLE SUBJECT MATTER:**

Claims 6, 8-13 and 23-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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